

General Delivery and Payment Conditions

1. Scope

The General Terms and Conditions apply to all our offers contracts, deliveries and other services (hereinafter referred to as "delivery"), including all future business relations, even if they are not explicitly agreed again. The Terms and Conditions shall be considered as accepted when placing the order or upon receipt of goods at the latest. We hereby expressly reject any terms and conditions to the contrary set by our customer; they shall only be applicable with our express written approval. Invalidity of individual provisions does not affect the validity of these Terms and Conditions in other respects.

2. Conclusion of contract, documents, industrial property rights

- 2.1 Our offers are not binding. A contract shall be only effected if we confirm the order in writing. The type and scope of our delivery are defined solely and exclusively by our written order confirmation. If the order is not confirmed by us in writing, the contract shall be effected upon the execution of the order at the latest. Any statements made by our employees orally or by telephone shall be legally valid only if confirmed in writing
- 2.2 Performance of the contract by us shall be conditional upon no obstacles arising from national or international regulations of foreign trade law or the law relating to chemicals or the environment as well as no embargos (and/or other sanctions) hindering the performance.
- 2.3 We reserve all property rights and copyrights of cost estimates drawings, designs, and other documents; these may be made available to third parties only with our approval. Drawings and other documents provided as part of an offer must be returned to us on request at any time; this is mandatory when the order is not placed with us. If we have delivered items according to drawings, models, samples or other documents supplied by the customer, the latter shall ensure that industrial property rights of third parties are not infringed upon. If a third party, referring to proprietary rights, prohibits in particular the manufacturing and delivery of such items we shall be entitled to suspend all relevant activities and to claim damages without being obliged to examine the legal position. In addition, the customer undertakes to indemnify us immediately from third-party claims related to the documents made available to us.
- 2.4 We reserve the right to charge the costs for samples and testing parts as well as tools required for their manufacturing. We shall invoice for the manufacturing costs for tools required for serial production, unless agreed upon otherwise. We shall retain title to all tools in any event, even if their manufacturing costs have been wholly or partly assumed by the customer
- 2.5 For call orders we shall be entitled to procure materials for the entire order and to manufacture the total order quantity immediately. Any customer requests for changes after the order has been placed can therefore no longer be taken into consideration unless expressly agreed upon otherwise.

3. Specification of services; Supplier

- 3.1 The quality of the delivery and service item shall be conclusively determined by the features expressly outlined in the product information and safety data sheet of the product; other or different performance characteristics of the deliveries and services are not agreed. Any warranty going beyond this express agreement on properties, e.g. for a specific purpose or particular suitability, duration of use, durability, functionality, compatibility, other subjective or objective requirements or compliance with samples, is only assumed if and to the extent that this has been expressly agreed in writing. Otherwise, the risk of suitability and use shall exclusively be on the part of the customer. We shall reserve any customary or technically unavoidable deviations from physical and chemical quantities, including colors, formula, recipes, processes and the use of raw materials as well as order sizes, as far as this may not be accepted as unreasonable by the customer.
Assembly and other instructions as well as specifications or recommendations for storage, installation, tests, operation or maintenance (hereinafter referred to as "instructions") going beyond the information contained in the product information and safety data sheets are only part of the delivery item and must only be handed over if this has been expressly agreed. We are entitled to hand over these instructions with the delivery, or to refer to them in delivery documents (e.g. by referring to corresponding websites). The customer is obliged to follow the instructions and to observe the relevant regulations such as (e.g. DIN standards) or other industry standards.
This warranty and all rights arising therefrom under this contract are exclusive. There are no further warranty rights, neither explicitly nor implicitly, neither based on advertising claims, implied actions nor commercial usage. As far as this is permissible according to the relevant legal provisions, all further statutory warranty rights are hereby excluded, in particular those that relate to an average subjectively or objectively expected quality, suitability for a certain purpose, a certain type of use or freedom from third party rights.
- 3.2 Details of the goods and services to be supplied (e.g. provided in catalogues, product information sheets, electronic media or on labels) is based on our general experience and knowledge and are thus reference values or markings only. These product details as well as expressly agreed features/purposes shall not relieve the customer of the need to test the product for the intended purpose.
- 3.3 Details on quality and possible uses of our products do not include any warranties or binding assurances, unless these are expressly specified as such in writing.
- 3.4 Klüber Lubrication normally purchases raw materials and primary packaging material from suppliers certified at least according to ISO 9001. If we purchase from non-certified suppliers or suppliers certified according to other standards in exceptional cases, we monitor and guide them as to their quality management system by means of other adequate methods (e.g. supplier audits, supplier assessment, development discussions, etc.).

4. Delivery and delivery time

- 4.1 Delivery time information – even if a delivery date has been agreed upon with the customer – is only approximate and not binding, unless the delivery date has been fixed explicitly as binding in writing. A confirmed delivery date is subject to the correct, complete and timely delivery of the goods to us by our suppliers. The delivery deadline shall be considered as met if prior to deadline expiry the delivery

item has left our factory or if we have informed the customer that the order is ready for shipment. The delivery deadline shall remain ineffective as long as the customer has not properly fulfilled its obligations, such as furnishing technical data and documents, approvals as well as making a down payment or providing a payment guarantee.

- 4.2 We shall be entitled to deliver by instalments.
- 4.3 Acts of God or other events beyond our control that render the timely execution of accepted orders impossible shall relieve us of our delivery commitment as long as these events prevail.
- 4.4 It is in principle not possible to return sold goods free from defects.
- 4.5 If the customer does not meet its payments and other obligations, or if it suspends its payments, or if execution proceedings (enforcement proceedings) are pending against it or if bankruptcy or settlement proceedings are opened regarding its assets, we shall be entitled to suspend deliveries immediately and to refuse the performance of current contracts unless the customer executes counter-performance or, on our request, provides appropriate securities.
- 4.6 All risks, including of accidental loss, shall pass to the customer at the time of performance (transfer of risk). The time of performance in the case of deliveries free domicile shall be considered as the time upon delivery or the time of the default of acceptance; in the case of delivery ex works the time when the notification that the goods are ready for shipment plus an appropriate pickup period of at least two weeks.

5. Securities

- 5.1 We shall reserve title to all goods supplied by us until all existing claims, including conditional and subsidiary claims, maintained by us against the customer based on our business relationship have been satisfied.
- 5.2 The customer shall be entitled to resell or process the purchased item or mix or combine it with other goods in the scope of its ordinary business only; however, it will thus now assign to us all claims resulting from resale, processing, mixing, combining or other causes in law related to the purchased item (in particular from insurance contracts or unlawful acts) in the amount of the mutually agreed final invoice total (incl. VAT). The same applies if an item is not sold but subject to a contract for work and materials or a contract for work and services.
- 5.3 The retention of title shall extend to the full value of the products ensuing from the processing, mixing or combining of our goods and we shall be deemed to be the manufacturer. If third parties retain title in case of processing, mixing, or combination with good of third parties, we shall obtain co-ownership in the ratio to the objective values of these goods. If our ownership ceases as a result of combining or mixing, the customer shall transfer to us now its ownership and/or expectant rights to the new stock or item to the extent of the invoice value of goods delivered by us, and shall hold them in custody on our behalf at no charge.
- 5.4 The customer shall be authorised to collect debt claims from the resale despite the assignment, as long as we have not revoked this authority. We will not collect debt claims ourselves, as long as the customer meets its payment obligations with us in due course. Upon our first written request the customer shall be obliged to inform us about the debtors of assigned claims as well as to notify debtors of the assignment.
- 5.5 We shall be entitled to revoke the customer's authority for resale according to point 5.2 and to collect assigned claims with immediate effect if the customer is in arrears with payments to us, experiences a shortage of liquid funds due to a significant deterioration of financial circumstances or does not carry out mutually agreed contractual obligations properly. If bankruptcy or settlement proceedings have been filed regarding the customer's assets, the customer discontinues any payments, execution proceedings (enforcement proceedings) or comparable proceedings are pending against it, it has payment difficulties, or if due to a shortage of liquid funds a change of ownership occurs in the customer's business, the authority for resale and collection of assigned claims will cease automatically.
- 5.6 The customer shall hold our (jointly) owned materials in custody on our behalf at no charge with due care and diligence as a prudent businessman and shall insure them against fire, burglary and other usual risks.
- 5.7 Any pledge or assignment as security by the customer of goods delivered under reservation of ownership is forbidden. Prior to any pledge or any other infringement of our ownership rights by third parties, the customer shall notify us immediately and confirm the right of ownership in writing both to us and the third parties. Any residual costs arising from resulting legal action despite our winning a case shall be covered by the customer.
- 5.8 If the customer violates the contract, in particular by delays in payment, we shall be entitled to recover the goods; the customer hereby gives its advance consent to this recovery in such a case. The recovery shall be considered as a withdrawal from the contract only if explicitly stated by us. All costs incurred by the recovery (in particular transport costs) shall be charged to the customer. The customer may demand the delivery of goods recovered without an express notice of withdrawal only once the purchase price and all costs have been fully paid.
- 5.9 Securities which we are entitled to shall not be accounted for so far as the value of our securities exceeds the nominal amount of claims to be secured by 20%.

6. Prices and payment

- 6.1 Our prices are quoted in Euro and free domicile within Austria, unless agreed otherwise.
- 6.2 Unforeseen changes in costs for raw materials, wages, energy and others beyond our control shall entitle us to adjust prices accordingly. For deliveries by instalments each delivery may be invoiced separately. If no prices have been agreed at the completion of contract, our delivery day prices shall be applicable.
- 6.3 Our invoices are due immediately and payable without discount, unless agreed otherwise.
- 6.4 We shall not be obliged to accept bills, cheques and other promises to pay, their acceptance shall at all times be on account of performance.
- 6.5 The receipt of payment date shall be the day on which the amount is in our possession or has been credited to our bank account. In case of delays in payment by the customer we shall be entitled to charge an annual rate of interest of 8% above the base interest rate pursuant to section 352 of the Austrian Turnover tax Act [UGB] for the duration of the delay. This shall not restrict the right to claim additional damage.
- 6.6 In case of the customer's payment delay we may additionally choose to call outstanding purchase price instalments or other existing claims against the customer due as well as to make future deliveries under this or other contracts dependent on an advance security or a contemporaneous payment against delivery.

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- 6.7 Advance or part payments are non-interest bearing.
- 6.8 The customer may set off or withhold payments only if its counterclaim is undisputed or has been recognised by declaratory judgement.
- 6.9 The customer waives the right to rescind the contract on account of gross disparity (section 934 of the Austrian Civil Code [ABGB]).

7. Claims for defects

- 7.1 We shall be liable for defects of goods delivered by us only according to the following stipulations:
- 7.2 The customer shall properly fulfil its duties regarding inspection and lodging complaints pursuant to sec. 377 et seq. of the Austrian Commercial Code [UGB]. The goods or the work must be inspected immediately after their delivery or handover. If any defects are thereby detected, we are to be made aware of these faults and notified in writing of the type and extent of the fault immediately – within at least 3 working days after delivery or handover of the goods. Hidden defects must be notified to us immediately, no later than 3 days after their detection, stating the nature and extent of the defect. If defects are not specified in writinwithin the period stipulated, the goods shall be deemed to have been accepted. Warranty claims or claims for compensation or avoidance on account of mistake owing to defects shall not be recognized in these cases. Warranty claims or claims for damages shall likewise become extinguished if the parts affected by the defect were modified by the customer or a third party.
- 7.3 If defective goods are delivered we shall be given the opportunity, prior to manufacturing (processing or installing), to sort out such goods and rectify the defect or to make an additional delivery, unless this cannot reasonably be expected from the customer. In case we are unable to accomplish this or fail to conform with it in due course the customer may rescind the contract to this extent and return the goods at our risk. In urgent cases it may, after consulting with us, correct the defects itself or have this done by a third party. Expenses incurred by this shall be reimbursed by us according to point 8.
- 7.4 If the defect comes to light only after the start of manufacturing, despite the fulfilment of duties according to point 7.1, the customer may demand subsequent performance (rework or substitute delivery by our choice).
- 7.5 In the case of substitute delivery the customer is obliged to return the defective material on request.
- 7.6 Claims for rescission of contract or reduction of purchase price shall be granted only if the defect cannot be remedied within an appropriate period, if subsequent performance will incur unreasonable expenses, is unacceptable or must be considered as failed for other reasons. The customer shall, however, have no right to rescind the contract in case of minor defects.
- 7.7 The customer shall allow us to promptly inspect any rejected goods, in particular these shall be made available to us on request and at our cost. If complaints are unfounded we shall reserve the right to charge transport costs and inspection expenses to the customer.
- 7.8 Claims for defects may be lodged if the defect can be put down to a violation of operating, maintenance and installation instructions, improper use or storage, faulty or negligent handling or assembly, natural wear and tear or tampering with the delivery item by the customer or a third party.
- 7.9 Damages, compensation and reimbursement of expenses may only be claimed according to point 8.
- 7.10 Claims for defects of the delivered products shall lapse 1 year after delivery of the product. For products other than new goods, delivered as mutually agreed upon, the customer may not make the aforementioned claim.
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8. Liability

- 8.1 We shall be liable for any damages in accordance with the provisions of sections 1295 et seq. of the Austrian Civil Code [ABGB] or section 349 of the Austrian Commercial Code [UGB] insofar as we, our employees or vicarious agents are charged with intent or gross negligence.
- 8.2 For damages resulting from injury to life, body or health, guarantees or violation of material contractual duties (duties which are essential for the performance of the contract and on which the customer has to rely on for the fulfilment of the contract), we shall also be liable for ordinary negligence. In case of a violation of contractually relevant duties our liability shall be limited to the direct average damage, predictable and typical according to the type of goods. Aforementioned stipulation shall also apply to breach of duty by our employees and vicarious agents.
- 8.3 We shall be liable for the infringement of third parties' industrial property rights in connection with the sale of our goods only if such third parties' industrial property rights are valid in the Republic of Austria and have been published at the time of delivery and only to the extent that such third parties' proprietary rights are infringed upon when using the products as agreed. This shall not apply if we have manufactured the delivery items according to drawings, models, descriptions or other documents or data provided by the customer and if we thus do not or need not have knowledge of any infringement of industrial property rights in connection with products developed by us. In this case our customer is liable for violations of industrial property rights that have already occurred or yet to occur. It is obliged to inform us without delay of any potential and alleged cases of infringement of third parties' industrial property rights which may become known to it, to indemnify us from third parties' claims and to bear all costs and expenses incurred.
- 8.4 Claims for price reduction and rights to rescind the contract shall be rejected so far as the claim for subsequent performance has lapsed.
- 8.5 Our liability pursuant to the provisions of the Product Liability Act shall remain unaffected by the aforementioned stipulations.
- 8.6 In other respects, we shall be exempt from liability.

9. Compliance with statutory and regulatory requirements, Indemnification

- 9.1 Unless otherwise agreed in written form, the customer shall be responsible for compliance with applicable statutory and regulatory requirements (including but not limited to requirements relating to the import, transport/shipping, storage, export, resale/distribution, application and use of the goods). The customer shall ensure to be and to remain fully informed about all applicable registration, information, and/or notification obligations and will ensure compliance with any such obligations, including but not limited to obligations relating to the import, transport/shipping, storage, export, resale/distribution, application and use of the goods. The customer guarantees to comply with all applicable statutory and regulatory requirements during our business relationship and to indemnify us against and hold us harmless from any claims or damages based on a breach of this obligation.
- 9.2 The buyer undertakes to refrain from the following transactions under all circumstances:
- Transactions involving persons, organisations or institutions listed in sanction lists under the EC-Regulations or US export control laws and regulations.
 - Illegal transactions involving embargoed countries.
 - Transactions subject to permits, in particular export permits however not having been granted such permits.
 - Transactions related to nuclear, biological or chemical weapons or transactions related to any other military end-use and for which the required permits have not been granted.
- 9.3 We only provide information relevant for foreign trade law such as the non-preferential origin as defined by foreign trade law and the customs tariff number in our commercial invoices. We do not issue long-term supplier declarations stating the preferential origin. The import of goods depends on their non-preferential origin. The declaration of this type of origin does not lead to the granting of tariff benefits.

10. Place of performance, legal venue and other agreements

- 10.1 The customer may assign its claims from the contractual relationship only with our prior consent.
- 10.2 For all claims from business relations, in particular our deliveries, the place from which performance/delivery is made shall be the place of performance.
- 10.3 For all claims from business relations, in particular our deliveries, the place of jurisdiction shall be Salzburg. This place of jurisdiction shall also apply to disputes as to the creation and validity of a contractual relationship. We shall, however, have the option to proceed against the customer in appropriate courts at the customer's place of business.
- 10.4 The business relations with our customers shall be exclusively governed by the laws of the Republic of Austria to the exclusion of its private international law as far as it refers to the applicability of another legal system. The UN Convention on the International Sale of Goods (C.I.S.G.) and other international conventions on uniform law on the sale of goods shall not be applicable.
- 10.5 The contract languages shall be expressly German and English, unless agreed otherwise.